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FILE NO: 29142.080072

April 8, 2016

**Submitted via FOIA Online**

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20004

**Re: Freedom of Information Act Request**

Dear Sir or Madam:

I represent the Utility Water Act Group, Southwestern Electric Power Company, and Union Electric Company (d/b/a Ameren Missouri) in litigation involving EPA's recently issued final Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category (the "ELG Rule").

This is a request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and EPA's FOIA regulations, 40 C.F.R. Part 2, for EPA to release records<sup>1</sup> related to the ELG Rule, but which are not part of the ELG Rule rulemaking record. Specifically, this request seeks those records and portions of records that meet all of the following criteria: (1) they are communications or information exchanged between EPA and environmental organizations ("Environmental Organizations")<sup>2</sup> between August 1, 2005 and November 3, 2015; (2) they

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<sup>1</sup> The term "records" as used herein includes originals, drafts, and non-identical copies of the same, whether printed or reproduced by any means, and includes, but is not limited to, correspondence, letters, memoranda, notes, emails, inter- or intra-office agency or departmental communications, summaries of personal or telephone conversations or interviews, minutes or records of meetings or conferences (including meetings of boards, committees, sub-committees, or any individual member thereof), press releases, telegrams, telexes, books, preliminary and final reports, logs, diaries, audio recordings, video recordings, computer files, charts, notebooks, calendars, statistical statements, tables, tabulations, calculations, data, diagrams, plans, drawings, blueprints, and orders, opinions or reports of consultants, experts, engineers, accountants, or analysts.

<sup>2</sup> The term "Environmental Organizations" as used herein means those organizations and other entities that are not themselves members of the regulated Steam Electric Power Generating Point Source Category, but who communicated with EPA as discussed herein. This specifically includes government organizations other than

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relate to effluent limitations guidelines for the Steam Electric Power Generating Point Source Category; and (3) they are **not** currently part of the public ELG Rule rulemaking record.

To guide your search, Attachment A is a list of Environmental Organizations that participated in the ELG Rule rulemaking process. While this list is not necessarily exhaustive of all Environmental Organizations that participated or that fall within the scope of this request, all responsive records from these entities should be produced pursuant to this request.

Please make available a copy of any responsive records or portions of any other records that meet the criteria above, **including but not limited to:**

1. documents recording information provided to EPA by Environmental Organizations or to Environmental Organizations by EPA;
2. documents describing any and all meetings or communications between EPA and Environmental Organizations;
3. documents produced by or for, or provided to EPA by, a third party, that contain information from Environmental Organizations; and
4. documents produced by EPA, Environmental Organizations, or third parties based on information from Environmental Organizations.

In addition to the records described above, please provide a copy of EPA's response to any FOIA request by any party seeking documents relating to this subject-matter as well as copies of any documents produced in response to such a request.

If an exemption or denial under FOIA is claimed for any of the above, I request that you furnish us with all non-exempt portions of such records, as required under the law. I further request that, regardless whether the disclosure of a record is denied in whole or in part, EPA provide us with the following information regarding such withheld records or portions thereof:

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EPA and non-government organizations (*e.g.*, the United States Fish and Wildlife Service, the Sierra Club), but excludes individuals communicating in their individual capacity. Also included within this term are chapters or affiliates of national non-governmental organizations (*e.g.*, Sierra Club's Lone Star Chapter and the Waterkeeper Alliance-affiliated Wabash Riverkeeper).

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1. the title of the record;
2. the date of the record;
3. a description of the general nature and subject matter of the record;
4. the identity of the author or authors of the record;
5. the identity of all persons who received the record; and
6. the reasons for the claim of exemption.

My clients are willing to pay appropriate fees attributable to this request and to make whatever payment arrangements are necessary. Under 40 C.F.R. § 2.107(b), the fee category is "commercial use request." However, please contact me if you estimate that the fees will exceed \$2,000. I request that these documents be provided in electronic format.

Pursuant to 40 C.F.R. § 2.104(a), it is my understanding that we will receive a response within 20 working days from the date this request is received. Please direct copies of the information requested and all correspondence regarding this request to my attention at the above address.

Thank you for your attention to this request. If you have any questions, please contact me at (804) 788-8784.

Sincerely,



Harry M. Johnson, III  
*Counsel for Utility Water Act Group,  
Southwestern Electric Power Company, and  
Union Electric Company (d/b/a Ameren Missouri)*

## **Attachment A**

### **Environmental Organizations That Participated in the ELG Rule Rulemaking Process**

American Canoe Association  
American Water Works Association  
Appalachian Faith and Ecology Center  
Appalachian Voices  
Association of State Drinking Water Administration  
Audubon Naturalist Society  
Center for Biological Diversity  
Chattahoochee Riverkeeper  
Chesapeake Bay Foundation  
Citizens Coal Council  
Citizens for Environmental Clean-Up  
Citizens Organizing for Resources and the Environment  
Clean Water Action  
Clean Wisconsin  
Committee for Constitutional and Environmental Justice  
Connecticut Clean Water Action  
Dan River Basin Association  
Defenders of Wildlife  
Downwinders at Risk  
Earthjustice  
Environment Council of Rhode Island  
Environment Texas  
Environmental Integrity Project  
Hands Across the Lake  
Izaak Walton League of America  
Loudoun Wildlife Conservancy  
Michigan Clean Water Action  
Minnesota Clean Water Action  
National Association of Clean Water Agencies  
Natural Resources Defense Council  
New Jersey Environmental Federation  
No Coal Coalition Matagorda County  
North Carolina Conservation Network  
Piedmont Environmental Council  
Prince William Conservation Alliance  
San Antonio Waterkeepers  
Sierra Club  
Sierra Club: Lone Star Chapter  
Sisters of Charity of the Incarnate Word of San Antonio, Texas  
Southeast Rural Community Assistance Project

## **Attachment A**

Sustainable Energy & Economic Development Coalition  
Texas Campaign for the Environment  
Texas Clean Water Action  
Texas Pecan Alliance  
Virginia Conservation Network  
Wabash Riverkeeper  
Waterkeeper Alliance